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MTRB Employer Bulletin

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Hiring retired educators: What employers need to know

Generally, consultants and independent contractors—even if hired or placed by a third-party—are also subject to the earnings limitations

As you know, approximately 4,000 Massachusetts educators are retiring this year and this trend will continue for several more years. As a result, school districts are finding it difficult to replace skilled teachers and administrators. Many of you are hiring retired educators to fill vacancies or to serve as interim replacements while you search for qualified, permanent hires.

If you are employing, or considering employing, a retiree, there are several important factors to consider. Please take note of the following general limitations on hiring a retiree.

■ 60-day separation from service

The IRS requires that retirees have a 60-day separation between their date of

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Deadline for submitting documentation for pre-July 1 service purchase applications is **September 30, 2005**

As reported in the December 2004 edition of the MTRB *Employer Bulletin* as well as our last member newsletter, the Legislature passed two bills last year that changed the rate of interest charged on service purchases made on or after July 1, 2005. Instead of the regular interest rate, which tracks an average passbook savings account rate and has ranged from the current 0.6% to a high of over 9% during the past 30 years, the new service purchase interest rate is one-half of the actuarial assumed interest rate, or 4.125%. As a result of the rate change, depending on when the service was rendered, some service purchases became more expensive after July 1, and some, less expensive. As reported previously, members who submitted their service purchase applications before July 1, 2005 were eligible to use the old interest rate if it was to their advantage.

So what does this mean to you now?

Many school district payroll officials have informed us that due to the high volume of

requests, they were not able to complete the service purchase forms for all members who asked to have their purchasable service documented before the deadline. All members who notified us about their inability to obtain the required documentation before the deadline were instructed to write a letter to the MTRB and send it in before the deadline as a placeholder. These members must now follow up and submit their completed service purchase forms. In order to give employers what we hope is a reasonable period of time to complete the forms, we have established a deadline of September 30, 2005. **Thus, those members who, prior to July 1, 2005, made application with the MTRB to purchase service but were unable to obtain complete documentation, must submit their completed service purchase forms by September 30, 2005. Otherwise, their service purchases will be calculated using the new interest rate.**

Questions? Please call us at 617-878-2890.

Hiring retired educators Continued from page 1

resignation and the day they return to service (even in a temporary or substitute capacity). The 60-day separation is waived for those members who retire at either 80 percent of their final salary average or age 65 or older.

■ Time and earnings limitations

Pursuant to M.G.L. c. 32 § 91, retirees may work no more than 960 hours in each calendar year, and their annual earnings, when added to their pension, may not exceed the salary that is currently being paid for the position from which they retired.

For example: Mary Educator retired from the Brockton Public Schools with a final year salary of \$55,000. Her gross annual retirement allowance from the MTRB is \$40,000. In general, she may earn up to \$15,000 in a calendar year under her Section 91 limits. Over time, the salary for the position from which she retired will increase so her earnings limitation will also increase.

■ Working as a consultant or independent contractor

In general, the retiree's employment as a consultant or independent contractor—even if he or she is hired or placed by a third party—is subject to the earnings limitations. For more information, please visit our web site at mass.gov/mtrb/6benrcp/67wkgaft.htm and review the memos from the Public Employee Retirement Administration Commission.

■ Critical shortage waivers

*Retirees who return to work pursuant to the limitations make **no** contributions to the pension system and accrue **no** additional retirement service.*

In 2000, the Legislature created an exception to the above limitations in the case where a school district may apply for and receive a "critical shortage waiver" from the Department of Education (mass.gov/doe). A school district that receives the waiver is authorized to hire a retired member of the MTRS irrespective of the usual earnings limitations.

It is important to note, however, that members who retire under the RetirementPlus benefit formula must wait two years from their effective date of retirement before they qualify for a critical shortage waiver.

Retired members who return to work on a part-time basis pursuant to the above limits, or on a full-time basis under a critical shortage waiver, make no contributions to the pension system and accrue no additional retirement service.

■ Working beyond the statutory limits

If a retiree has not been approved for a critical shortage waiver and wishes to work beyond the statutory limits, he or she may request (by sending a written request to

the MTRB) to waive his or her retirement allowance temporarily. A retired teacher who returns to work and waives his or her pension while working is **not** subject to the time and earnings limitations and is not required to make contributions to the pension system. However, stopping a retiree's pension payments can affect the administration of the person's health insurance benefit, so it is a good idea for the retiree to discuss the impact of this action with your district's local insurance coordinator before making this decision. Once the retiree has stopped working, the MTRB must be again notified in writing to resume the pension payments.

Please note: a retiree cannot waive his or her pension during one year and then reinstate it the next year for 960 hours. According to the Attorney General, such "on-again, off-again" arrangements "turn the statutory retirement scheme on its head by providing retirement benefits to employed persons rather than a limited opportunity for compensated employment to retired persons."

■ Reinstatement

A recent change in retirement law allows retired members, who agree to certain terms and conditions, to return to active membership in the MTRS and, in effect, to "unretire." Under the new provision, the retiree must pay back to the retirement system the total pension benefits received while retired, plus interest at the actuarial assumed rate of 8.25 percent. Moreover, the retiree must be employed in a full-time position subject to membership in the MTRS, for at least five full years from his reinstatement date, in order to accrue additional retirement benefits. For the detailed list of conditions for reinstatement, refer to the memo of the Public Employee Retirement Administration Commission, at mass.gov/perac/04memos/3404att.pdf. ■

Employment Opportunity

The MTRB is seeking candidates to apply for the position of Service Representative in our Employer Reporting unit. The complete job description and list of qualifications can be found on the Commonwealth's web site. Link to the Human Resources Division's job search homepage at

http://ceo.hrd.state.ma.us/ceo.nsf/ceo_homepage_frm?openform

and type "MTRB" in the search box.

Please plan to attend one of our programs!

Register now for an Employer Training seminar

Online registration for our 2005 employer training seminar series is now underway. To reserve a place at one of the eight scheduled programs, simply go to

mass.gov/mtrb/4emp/411empmar.htm and sign up.

As you'll see, we've also posted links to driving directions for each location.

This year's program will focus on the ways that we at the MTRB, in partnership with our school district business counterparts, will meet the escalating demand for teacher retirements and retirement-related services. Topics on the agenda include:

- a report on new legislation affecting the retirement system;
- an update on our project to implement an online deduction reporting application for employers;
- a session on regular compensation that will consider how to differentiate pensionable from nonpensionable earnings and report it correctly;
- a Q&A session on regular compensation with our Legal

and Member Services staff; and,

- a primer on the rules governing retirees who return to public employment.

We urge every school district, charter school and collaborative to send at least one representative to participate in one of these important sessions. Feel free to send as many representatives as you'd like—there is no limit on the number who may attend. We've planned the dates and locations to make it easy for all districts to send a representative.

We consider our programs more than simply a forum to provide information—we look forward to them as an opportunity to meet and renew our contacts with school business administrators with whom we do long-distance business throughout the year. So please attend and bring your questions, suggestions and concerns. Check-in for each session is from 8:30 to 9 a.m., with the program beginning at 9 a.m. Coffee, tea and pastries will be served. We look forward to seeing you at one of our seminars! ■

Summer 2005 Employer Training seminar schedule

<input type="checkbox"/> Taunton	Tuesday, July 26	Holiday Inn
<input type="checkbox"/> Worcester	Thursday, July 28	Crowne Plaza Hotel
<input type="checkbox"/> Pittsfield	Friday, July 29	Crowne Plaza Hotel
<input type="checkbox"/> Newton	Tuesday, August 2	Sheraton Newton Hotel
<input type="checkbox"/> Fitchburg	Thursday, August 4	Fitchburg State College
<input type="checkbox"/> Holyoke	Tuesday, August 9	Holiday Inn
<input type="checkbox"/> Wakefield	Thursday, August 11	Sheraton Colonial Hotel & Golf Club
<input type="checkbox"/> Hyannis	Friday, August 12	Radisson Hyannis

Want to help us save postage and printing costs?

Tell us you'd like to receive your next copy of the Employer Bulletin via e-mail only!

Currently, we send the Bulletin to our employer representatives via e-mail and US mail. However, in an effort to save costs, we're asking those readers who can do without the printed copy to notify us that they'd be happy to receive only the e-mailed version.

If you're OK with receiving the e-mailed version only, please send an e-mail to us at **empsup@trb.state.ma.us**, and say, "Yes, I'd like to help save costs. Send me the e-mailed Bulletin only," and we'll send the next issue right to your desktop—with our thanks!





Disability retirement issues for emp

Tips for completing the Employer's Statement

You, the employer, have a key role in disability retirement applications—by following some simple guidelines, you can greatly facilitate the process for everyone

Of all of the cases that we process, disabilities are the most difficult for the staff and Board. They involve extremely serious and unfortunate human situations, and usually present complex legal issues, which must be analyzed carefully to ensure compliance with the law. They are also the cases where the Board must decide to either grant or deny the application.

These cases fall into two categories:

- **Accidental:** These benefits are available if the employee finds herself incapable of performing the essential duties of her position because of a job-related injury or exposure to a job-related hazard, and such disability is likely to be permanent.
- **Ordinary:** These benefits are available if the employee becomes totally and permanently disabled from performing the essential duties of his position for any reason independent of his work.

In 2004, the Board received a total of 36 applications for disability retirement. This year, we are on track to nearly **double** that number, as we have already received 30 applications through June. To help us and your employees navigate the process as quickly as possible, please be aware of your responsibilities and refer to these tips.

What you can do to assist in the process:
Some practical tips

✓ **Complete the Employer's Statement fully and be sure to attach the required documents.**

If you've had an employee who has filed for a disability retirement, you know that the disability application process includes the *Employer's Statement*, a nine-page form that we send to employers for completion.

THIS FORM IS A CENTRAL AND INTEGRAL PART OF THE CASE. This form asks many questions about the employee's duties and responsibilities, future opportunities for employment, reactions and responses to the disability claim, Workers' Compensation claims, the circumstances of the incident (in the event of a

claim for accidental disability), and the employee's essential duties, usually set forth in the job description. [We have been asked whether employers have an obligation to provide this information, and the answer is **yes**. Pursuant to 840 CMR 10.07, employers have a legal duty to respond with the requested data.]

When completing the *Employer's Statement*, please note:

■ **The Employer's Statement must be completed by the employee's immediate supervisor.**

It must be signed by the superintendent, but it must be completed by the **immediate supervisor**.

■ **If the response includes a check box, and "please describe," be sure to complete the description.**

If your answers are incomplete, it will unnecessarily delay the process as we will need to contact you for clarification. Be sure to check your responses for completeness.

■ **Be sure to attach ALL required documents.**

The form lists the required documents, and it is vital that you provide full, complete and accurate copies. Additionally, if you have **any** documents pertaining to the applicant that you think are important for the Board to review, please include them. As instructed, include the applicant's service and salary verification documents (salary schedules), as these impact the amount of any benefit awarded.

✓ **Please respond completely and in a timely manner—delays in forwarding information cause delays in the entire process.**

Please remember that these are serious, often time-sensitive cases. The Board appreciates administrators' time, and truly values employers' cooperation. A full and complete Employer's Statement will save administrators time in the long run. However, in the event that information is not provided as requested, the Board may need to subpoena employer representatives to appear in person to answer questions relevant to the case.

✓ **Contact us if you have questions or need help.**

We're here for you. If you're not sure of something, don't guess: contact our Disability Case Coordinator, Aaron Morrison, at either 617-878-2817 or Aaron.Morrison@trb.state.ma.us. ■

*In 2004, the Board received a total of 36 applications for disability retirement. To date in 2005, we have already received 30 applications—we may **double** last year's caseload.*

Employers

Disability processing Q&A

From the MTRB's web site, at mass.gov/4emp/46dis.htm

Q Am I allowed to provide personal information to the MTRB related to a disability retirement application?

Massachusetts General Laws Chapter 32, § 20(5)(b) states: "The head of any department upon request from the Board shall promptly furnish it with such information as shall be required to effectuate the provisions of sections one to twenty-eight inclusive." This language allows the Board as part of the accidental disability retirement application process to ask the employer to complete an extensive Employer's Statement form.

Q What is the criteria for eligibility when applying for an ordinary or accidental disability?

For an ordinary disability retirement, one must have 10 years of total creditable service and be less than 55 years old. An applicant who is a military veteran can be over 55 years of age. For an accidental disability retirement, one must be a member in service when the injury occurred.

Q What is the length of time for a disability retirement application to be processed?

An ordinary disability retirement takes approximately four to six months. An accidental disability retirement takes approximately nine months.

Q What is the difference between ordinary and accidental disability retirement?

An **ordinary** disability retirement is a medical condition which is unrelated to the job. A medical panel of three physicians must determine (1) that the member is disabled from the job, and (2) that the disability is permanent.

An **accidental** disability retirement is a medical condition which is caused by the job. A medical panel of three physicians must determine (1) that the member is disabled from the job, (2) that the disability is permanent, and (3) that the medical condition is a result of an incident, a series of incidents or a hazard undergone on the job.

Q As an employer, do I have any input into the disability process?

Yes. As the employer, you will be required to complete the Disability Applicant's Employer Statement. Along with that statement, you will be required to submit attendance records and teacher evaluations from the past five years. Also, you or someone on your staff familiar with the circumstances surrounding the incident will, in all likelihood, be called before the Board to testify.

Q If a member becomes injured while traveling to and from school, slips and falls in the school parking lot or becomes injured during lunch break, is he or she eligible for an accidental disability retirement?

In almost all of the above cases, the answer would be no. The injury must have occurred while the member was in the performance of

his or her duty. In any event, the member should be encouraged to contact the MTRB to discuss the specifics of his or her injury.

Q If a member incurs a work-related injury but does not lose any time from school, is it necessary to have him or her contact the MTRB?

Yes. The member should submit any and all information regarding the injury within 90 days of that injury. This will provide protection for the member if that injury were to develop into something more serious some years later.

Q Should I encourage the injured member to apply for Workers' Compensation with our local carrier?

Yes. If the member incurs a work-related injury and is expected to be out of work for a period of time, he or she should be encouraged to apply for Workers' Compensation. Again, this will protect the teacher if he or she applies for an accidental disability retirement some years later related to that particular injury.

Q When the MTRB requests a formal job description and none exists, what should the school send?

The medical panel must review an official school document which describes the requirements of the particular job. Therefore, the administration should report in writing exactly what those requirements are.

Q When does the member officially become retired on a disability?

The member is officially retired on the day that the MTRB votes to approve the disability. If the member is receiving paid sick leave, it should be stopped on that day. The Board vote, along with supporting documents, will be reviewed by the Public Administration Retirement Commission, which is a regulatory agency for all Massachusetts retirement systems. Once that process is completed, the member will receive an estimated check; within 60 days of receiving the first check, the member will receive a finalized check.

A note on Workers' Compensation

On occasion, employers have asked us why we have advised their employees who have applied for accidental disability retirement (ADR) to file simultaneously for Workers' Comp benefits. The answer is that we are actually required by law to tell ADR applicants to pursue their Workers' Comp benefits, because there is a right of offset of Workers' Comp benefits against ADR benefits. Interestingly enough, educators who have suffered an accidental on-the-job injury don't often think to file for Workers' Comp benefits.

Please note: The requirements for receiving Workers' Comp benefits are different from those for ADR benefits.



R E M I N D E R S

Please keep your teachers' addresses up to date

As we tell our members,
"If it's wrong with your employer,
it will be wrong with us"

This is another of the many areas where we cannot function effectively without your help.

In May, we mailed annual statements to our almost 85,000 active members and 18,000 inactive members (members who are not actively teaching but who have left their funds on account). Approximately 7,500 statements were returned to us by the post office as undeliverable. Of those, 4,300 included a forwarding address and the remainder had no valid address.

Obviously, our inactive members, who are not currently employed by a school district, are responsible for making sure that the MTRB has their current address data on file. However, for our active members, we need to rely on you—our 412 public school districts, charter schools and collaboratives—to keep our address lists updated via input from your monthly retirement deduction reports.

We understand that, especially in this day and age, your employees are a mobile group, and they don't always inform you of address changes. To the extent that you can, we request that you encourage your teachers to report address changes promptly, so that they don't miss out on any of our mailings. Likewise, we ask that you please update the address fields on your deduction reporting software without delay so that your teachers' MTRS account data will always be as current as possible.

We know that we call on you for assistance in many areas, and we are grateful for your support throughout the year. It is our goal to continue to work successfully with you so that we can provide quality service to our members. ■

Be sure to submit Social Security Form 1945 for your new hires

As noted in our December 2004 Bulletin (No. 7), employers are responsible for sending a signed copy of the completed form to the MTRB

As of January 1, 2005, employers are required to provide new hires who will be enrolling in the MTRS with Social Security's Form 1945. The purpose of this form is to

explain to new employees how a public pension can potentially affect Social Security benefits in Massachusetts. The employee must sign the form and return it to the employer.

It is the employer's responsibility to:

- **give** the statement to the new employee prior to the start of employment
- **get** the employee's signature on the form; and
- **mail** or **fax** a copy of the signed form to the MTRB's Boston office, ATTN: Employer Reporting/ Enrollment (see page 1 for contact information).

To obtain the form in downloadable pdf format, as well as information on the notice itself, please visit Social Security's web site at socialsecurity.gov/form1945. ■

Watch your e-mail— We'll soon be asking for your collective bargaining agreements in electronic format

Send us your document file once
and we won't bother you for multiple copies!

As you know, we require that members applying for retirement provide us with copies of their contracts to document their highest three consecutive years' salaries. In most cases, members do not have this documentation at hand and ask you to supply the appropriate, often lengthy, contracts. Accordingly, in an effort to:

- avoid duplication of effort on your part,
- streamline our retirement application processing, and
- slim down our member files,

we are asking for your help in compiling a comprehensive library of collective bargaining agreements—in electronic format. This library will be accessible to our staff only, and, we expect, will reduce the number of phone calls from us to you because by providing us with an electronic copy of your district's contract for a specific period, you and your retiring members will not need to send us multiple copies of the same contract. *Please note, however, that you will still need to provide copies of the relevant salary schedule pages, with the particular salary step and additional compensation information circled.*

Later this summer, we will be contacting one payroll administrator in each school district, via e-mail, and asking for assistance. If you receive the e-mail but are not the appropriate person to respond, please forward it to the right person, with our thanks in advance. ■

You **can** get there from here—

You don't have to bookmark several "blind" pages any more—our new page links to all "payroll use only" MTRB forms!

As you know, we made the RetirementPlus accelerated payment application available to payroll personnel via a "blind" web page five years ago, and, in February 2005, we provided you with another "blind" link to the interactive version of our new retirement application (Part 2).

As noted below, we have now created a third interactive, "payroll use only" form (the Military Service Leave Reporting Form), and since we anticipate adding more interactive forms, we have posted this new page to serve as one gateway or index to ALL of our interactive forms.

Like the previous "payroll use only" pages, this is an unlisted, unlinked URL. We are making the address to this page available to payroll personnel only. **Please be sure to bookmark this new page, or add it to your favorites, for easy access!**

Now access ALL interactive forms from
mass.gov/mtrb/4emp/42emplks.htm.



Military Service Leave Reporting Form now online

Employers are required to pay retirement contributions for educators who are called up; please use this form to report these payments

Teachers who are members of the National Guard or reserve forces, and who are ordered to active military duty, are entitled to receive retirement service credit for the period while they are activated. For this period, the employer is required to pay the MTRS an amount equal to what the member would have contributed if his or her employment had not been interrupted. Military service funds must be submitted and accounted for separately from regular retirement deductions.

To facilitate your reporting of these military service funds, we have posted an interactive pdf form on our web site. As noted above, you can access both the form and a page of information and instructions via a link at **mass.gov/mtrb/4emp/42emplks.htm**. If you have any questions about military service leave credit or payments, please contact our Employer Reporting unit at 617-878-2895 or **empsup@trb.state.ma.us**. ■

FROM THE EMP SUP@TRB.STATE.MA.US INBOX

Q: If an employee has a “dual address,” meaning both a P.O. box and a street address, what do I report?

Report just one address—**either** the P.O. box **or** the street address, not both—and put the information in “address line 2,” the line that immediately comes before the “city, state, ZIP” information.

In other words, if a member has a dual address, and wishes to receive correspondence from us at his or her:

- **P.O. box**, report the P.O. box in the second address line, and omit any additional information, such as street and house or apartment number.
- **street address**, report the street address in the second line; make sure that the ZIP code corresponds to the street address, not the P.O. box; report any additional information, such as apartment number, in the “first” or “ATTN” line; and omit the P.O. box number entirely. ■

Do you have a question about enrolling a member, withholding retirement contributions, establishing contribution rates or submitting payroll deductions? If so, please submit it to us at empsup@trb.state.ma.us and we'll reply via e-mail. We'll publish the Q&A that we think might be helpful to your colleagues in our Employer Bulletin.

Per the U.S. Postal Service, mail with a dual address—meaning both a street address and a post office box number—is delivered to the address immediately **above** the city and state. To ensure delivery to the desired location, only one address should be included. For example:

This...	...or this...
Marie C. Hudson	Marie C. Hudson
	Apt 2B
P.O. Box 221	123 Baker Street
Cambridge, MA 02138	Cambridge, MA 02138

...but NOT this...

Marie C. Hudson
P.O. Box 221
123 Baker Street, Apt 2B
Cambridge, MA 02138

For additional information on addressing standards, visit the Postal Service's web site at <http://pe.usps.gov/text/dmm300/602.htm>.

LEGISLATIVE REPORT

Two measures see progress: Allowing Voc-ed teachers to purchase related service, and certain retirees to change their retirement option

The House Committee on Ways and Means passed a redraft of the so-called “Voc-ed” bill on Tuesday, July 5, 2005. The bill, S2057 (redraft of S1555), would allow vocational education teachers the opportunity to purchase up to three years of service for the time they worked in a vocation that allowed them to be certified as a vocational education teacher. The bill must now be scheduled for action on the House floor. Last year the Governor vetoed a similar bill at the end of the legislative session. We continue to work with the sponsors of this legislation and expect a bill to be forwarded to the Governor later this year.

In addition to the Voc-ed bill, the Senate has also given approval to legislation, through an “outside section” of the Senate Budget that would allow members of a retirement system who retired between June 30, 2004 and December 31, 2004 to re-elect their retirement option. We have been working closely with the House, Senate and the Public Employee Retirement Administration Commission on this initiative. This initiative, if enacted, will allow those retirees to take advantage of the updated, more favorable, mortality tables and option factors that took effect near the end of December 2004.

We will let you know of any change in the status of these two bills at our upcoming Employer Training seminars (see p. 3), so please be sure to attend! ■

Retirement season 2005: Update

As of press time, we have received applications from approximately 2,500 members who wish to retire in calendar year 2005.

While the number of filings is actually running a little behind our projection of 4,000 retirements for the year, it is not uncommon for us to receive a large number of late applications. Notes Jonathan Osimo, Director of Member Services/South, “We could easily see another 1,000 to 1,500 applications arrive between now and December.”

**Approximate number
of retirement applications
to date: 2,500**

